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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1949.

Nos. 510 and 511

IN THE MATTER OF
CHICAGO RAILWAYS COMPANY, ET AL.,
DEBTORS.

CHICAGO TRANSIT AUTHORITY,
Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS AND JOHN E. SULLIVAN, LIQUIDATING TRUSTEE, ETC.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

TRUSTEE'S ANSWER TO PETITION FOR WRIT OF CERTIORARI.

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ANSWER TO PETITION FOR WRIT OF CERTIORARI.

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

MAY IT PLEASE THE COURT:

Petitioner apparently relies on Rule 38, sub-section 5(b) of this Court in asking this Court to review and reverse the judgment of the Circuit Court of Appeals

for the Seventh Circuit. The Court of Appeals affirmed in substance an order of the United States District Court for the Northern District of Illinois, Eastern Division, striking the objections of Petitioner, the Chicago Transit Authority, a municipal corporation (hereinafter sometimes referred to as C. T. A.). These objections were interposed by the Petitioner-Intervenor to a claim for local personal property taxes filed by the State of Illinois against the component Debtor corporations, making up the Chicago Surface Lines in bankruptcy reorganization under Chapter 10 of the Bankruptcy Act. The objections stricken asserted tax exemption in whole or in part from the taxes assessed against the Debtor corporations (Rec. 78-80).

Petitioner asserts (Pet. p. 3) as the reasons for invoking this Court's supervisory power, that the Court of Appeals decided a question of "public importance," in conflict with the rule announced by the Court of Appeals for the Third Circuit in *U. S.* v. *Certain Parcels of Land, etc.*, 130 F. (2d) 782 (1942); and that the Court of Appeals has failed to follow the local law (Pet. p. 5), meaning the law of Illinois (Pet. p. 3).

QUESTIONS PRESENTED.

1. Did the Court of Appeals fail to follow the Illinois statutes and rule of decision in holding that the tax exemption of the Chicago Transit Authority had no retroactive application to local personal property taxes assessed against the Debtor corporations of the Chicago Surface Lines?

2. Is the decision of the Court of Appeals in conflict with the holding of the Court of Appeals for the Third Circuit in *U. S.* v. *Certain Parcels of Land, etc.*, 130 F. (2d) 782?

STATEMENT OF THE CASE AND POSITION OF THE TRUSTEE.

On August 2, 1948, the State of Illinois filed its claim in the reorganization proceedings of the Chicago Surface Lines, pending in the United States District Court at Chicago, Illinois, for 1947 personal property taxes assessed against the tangible personal property of the component Debtor corporations known as the Chicago Surface Lines (R. 68-70).

The Trustee filed his Answer and Objections* on September 7, 1948, attacking the validity of certain portions of the tax assessments on grounds similar to those involved in the recent case of *In re Chicago Railways Co.-People* v. *Sullivan* (C. A. 7, 1949), 175 F. (2d) 282.

Petitioner, Chicago Transit Authority, which had acquired the properties in question by purchase from the debtors on September 30, 1947, under a Plan providing for the proration of taxes, was permitted to intervene on December 17, 1948, and file its answer and objections to the tax claim asserted against the Chicago Surface Lines. These objections asserted that C. T. A. was tax exempt under Illinois law, that such exemption extended to the properties of which it had taken possession and ownership on September 30, 1947, and that for the balance of that year, if not for the entire year, such tax exemption should operate to defeat the State's claim against the Chicago Surface Lines, which were private as distinguished from municipally-owned public utility corporations, and traditional and chronic taxpayers in Illinois (Rec. 75-80). In

* These objections do not appear in the printed record but are referred to in the C. T. A.'s objections (Rec. 81).

short, the C. T. A. contended that it was being asked to pay taxes from which it was exempt.

After hearing, the District Court ordered the tax exemption objections stricken, filed an opinion construing the Plan, and held that the properties of the Chicago Surface Lines were not tax exempt under the Illinois law when the 1947 taxes were assessed, and that the C. T. A.'s tax exemption did not relate back to defeat any valid claim for taxes against the debtors (R. 85-87).

The Court of Appeals in substance affirmed that judgment in all respects here pertinent.

Pursuant to law, the Trustee filed personal property tax returns of the Debtor corporations' tangible personal property with the Assessor of Cook County on April 1, 1947, at which time the property in question was assessed for the entire year (R. 69). The State's tax claim is excessive and is being resisted by the Trustee on all grounds deemed by him to be sound (Cf. prior year's litigation, *In re Chicago Railways Co.* (C. A. 7, 1949), 175 F. (2d) 282). However, since the Trustee has a responsibility to the State, as well as to all other creditors, to pay amounts which are lawfully due to such creditors, under and pursuant to the Plan, the Trustee has refused to assert any tax exemption, contended for by Petitioner, which finds no support under the statutes and rule of decision of Illinois, and is participating in this aspect of the reorganization proceedings in order to assure that the C. T. A. does not obtain a ruling which would permit it to escape its contractual obligations to the Debtors under the proration provisions of the Plan, as hereinafter discussed.

ARGUMENT.

By use of unsound arguments, inapplicable cases, and doubtful logic, Petitioner has misinterpreted and distorted the questions presented in the cause below. To clarify these questions it is necessary to keep several basic matters in mind:

First. The owners of the property on April 1, 1947 were the Debtor corporations. It is undisputed that the effective date of transfer to the Chicago Transit Authority was September 30, 1947 (Pet. p. 13).

Second. Under Section 28 of the Revenue Act (Smith-Hurd, 1929 Ed., Ill. Rev. Stat., Chap. 120, par. 509), the owner of property on April 1 of any year, is personally liable for the taxes of that year.

Third. The taxable status of property, *i. e.,* whether it is tax exempt or not, is determined by the use to which it is put and its ownership as of April 1. *People* v. *St. Louis,* 291 Ill. 600; *People* v. *Deutche Gemeinde,* 249 Ill. 132, 138; *People* v. *Catholic Bishop,* 311 Ill. 11, 16.

Fourth. In recognition that the Debtors were the owners of the property on April 1, and that the properties were not tax exempt on that date, so that the Debtors were fully liable for the taxes, the plan of reorganization provided for the protection of the Debtors by imposing a contractual liability on the Petitioner as purchaser to adjust the purchase price by paying the Trustee an amount equal to the prorata part of the taxes for the year in which the property was sold (R. 18-19).

Fifth. As a corollary of the preceding proposition, the liability of the Petitioner does not arise from any tax claim made against it. The State has levied no taxes

against the Petitioner. Nobody is asking the Petitioner to pay any taxes. The liability of the Petitioner arises from its contractual obligation to adjust the purchase price by an amount equal to the prorata part of the taxes for the year in which the property was sold.

It was the force of the foregoing considerations that impelled the District Court and the Court of Appeals to decide against the Petitioner. As stated by the Court of Appeals (Rec. 112-113):

> "* * * the legislature has provided that the owner of property on the first day of April in any year shall be liable for the taxes for that year. Thus, on April 1, 1947, the debtors were the owners of the property and *pro forma,* on that date, their liability for the taxes for the year attached; that liability has not been discharged and the debtors are, under the statute, still obligated for all taxes legally assessed for the year 1947. The state has assessed no taxes against the Authority. It has assessed the taxes for 1947 upon the personal property of the debtors only against the debtors, who were the owners on April 1 of that year and who, under the statute, remain liable.
>
> "* * * In Illinois, it matters not what an owner of property may do with it within the year after April 1; he may sell it or give it away, but nothing that he does will lessen his liability for the taxes. * * * but the inchoate statutory liability of the owner to pay the taxes upon personal property exists thenceforth after April 1, without limitation of any character whatsoever. Consequently, when the trustee sold the property to the Authority on September 30, 1947, nothing occurred in that transaction which in anywise relieved the estate from its liability for the taxes, and if any liability accrued against the Authority, it was a contractual liability arising from the contract of the parties. The sale did not affect in any way the state's right to recover the taxes from the owners.
>
> "We think this is the law of Illinois."

It is therefore plain that in order to sustain one of its asserted grounds for certiorari, *i. e.,* that the District Court and the Court of Appeals failed to follow Illinois law, Petitioner has the burden of demonstrating to this Court that the statutes or rule of decision of Illinois provide for a retroactive exemption in favor of one whose property is purchased by a tax exempt municipal corporation after April 1, the date on which the seller has become personally liable for taxes.

We shall now demonstrate that there is no merit in said proposition.

The Court of Appeals Followed the Law of Illinois in Deciding That Petitioner's Tax Exemption Could Not Operate Retroactively in Favor of the Debtors.

The pertinent provisions of the Illinois statutes are as follows:

1. Chapt. 120, Par. 509 of the Illinois Revised Statutes (Smith-Hurd, 1949 Ed.) provides that the owner of property on the first day of April in any year shall be liable for the taxes of that year (Sec. 28 of the Ill. Rev. Act of 1939).

2. The Petitioner is a municipal corporation (Smith-Hurd Ill. Rev. Stat., 1949 Ed., Ch. 111⅔, Par. 303) and is exempt from taxes (Smith-Hurd Ill. Rev. Stat., 1949 Ed., Ch. 120, Par. 500, sub-par. 13).

3. Chapt. 120, Par. 500, sub-par. 13 of the Illinois Revised Statutes provides for the exemption from taxation of all property *belonging* to any municipal corporation created for the owning and operating of a public transportation system (Sec. 19 of the Ill. Revenue Act of 1939).

The uniform and firmly established policy of Illinois is that all grants of tax exemption whether to charitable,

religious, educational or municipal corporations are to be strictly construed, *Turnverein Lincoln* v. *Board of Appeals*, 358 Ill. 135; *People* v. *Trustees of Schools*, 364 Ill. 131. In construing these statutes, it is clear that only the property *belonging* to a specified municipal corporation is tax exempt; and the taxable status of such property is determined as of April 1 for each year. Since it is indisputable that the Debtors owned the property on April 1, 1947, and that the property did not *belong* to C. T. A. until September 30, 1947 (Rec. 77, 86), the tax liability of the Debtors is absolute for the entire year. The Illinois statutes and authorities which impel this conclusion are set forth and discussed in the Court of Appeals' opinion (R. 113-114):

> "* * * in *People* v. *Deutsche Gemeinde*, 249 Ill. 132 at 138, which had to do with real estate taxes, the court said: 'The Revenue Act fixes the first day of April in each year for determining the status of property for taxation * * * although the amount of the taxes has not been determined on the first day of April. The *liability to taxation* and the lien for whatever taxes may be levied for that year are fixed on that day.' (Italics ours.) Though the lien for real estate taxes attaches as of April 1, while that for personal property attaches only after certification to the collector, we think that fact is immaterial. We are dealing with liability for taxes, liabilities to the state, and when the court said that the liability for taxes is fixed on that date, its intent, we think, was clearly such that, from and after April 1, 1947, the debtors were liable for the taxes for the entire year. The language of *People* v. *Catholic Bishop of Chicago*, 311 Ill. 11, 16, cited with reference to exemption, is likewise pertinent in this connection. The court said: 'By the Revenue Act property is required to be assessed "with reference to the ownership, amount, kind and value" on the first day of April. Property

owned on that day which is not exempt is taxable, although it may thereafter be devoted to a purpose which would exempt it from taxation.' "

Petitioner has not pointed to any statute or rule of decision in Illinois giving the Debtor corporations a retroactive benefit of the C. T. A.'s tax exemption. Indeed, in the courts below Petitioner conceded the general rule in Illinois to be that the taxable status of property with respect to exemption is determined by its ownership and the use to which it is put on April 1, and it has never argued either here or below that there is any language in the Illinois statutes granting tax exemption to it or to anyone else which shows a purpose to give such exemption retrospective operation by reducing the liability of the former owner who had become absolutely liable for the taxes on April 1.

Petitioner, however, attempts to escape the clear and necessary implication of this rule by drawing a distinction between tax exemptions granted to a municipal corporation, such as the Petitioner, on the one hand, and tax exemptions granted to the charitable, religious and educational corporations involved in the cases relied on by the Court of Appeals, on the other hand. On the basis of cases cited from other jurisdictions (Pet. p. 14), Petitioner argues that there is a latent public policy in Illinois specially favoring tax exemptions of municipal corporations. Apart from the circumstance that these cases are distinguishable on their facts,* the short and complete an-

* None of the cases cited in the petition, pp. 14-16, arose on facts similar to those of the instant case. Petitioner's cases fall into two classes. In both, the state or its agency has acquired property subject to pre-existing taxes. In one class the property is subsequently sold by the public authorities at a tax sale to private parties in order to enforce collection of the taxes. In the other, generally, such a sale is about to take place. In the first class, the action is between the state or its agency and the private party claiming under the tax deed, the state asserting a para-

swer to Petitioner's argument is that irrespective of any public policy in other states favoring municipal corporations in this regard, there is no such public policy in Illinois.

In Illinois tax exemptions originate exclusively from specific statutory grants by the legislature and as shown *ante* p. 8, tax exemption statutes, including exemptions of municipal corporations, are very strictly construed in Illinois. Further the Illinois Supreme Court has consistently held that no tax exemptions are to be extended to municipal corporations unless expressly and specifically provided

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mount right by virtue of its tax exemption. *City of Laurel* v. *Weems*, 100 Miss. 335, 56 So. 451; *Foster* v. *City of Duluth*, 120 Minn. 484, 140 N. W. 129; *Smith* v. *City of Santa Monica*, 162 Cal. 221, 121 P. 920; *State* v. *Locke*, 29 N. M. 148, 219 P. 790; *Reid* v. *State*, 74 Ind. 252. In the second, the state or its agency sues to enjoin the collection of the tax and sale of the property or for a declaratory judgment that the tax liens thereon are void. *City of Harlan* v. *Blair*, 251 Ky. 51, 64 S. W. (2d) 434; *City of Portland* v. *Multnomah County*, 135 Ore. 469, 296 P. 48; *State* v. *Reed*, 47 Idaho 131, 272 P. 1008; *State* v. *County of Maricopa*, 38 Ariz. 347, 300 P. 175; *State* v. *Gaylon*, 154 Okla. 204, 7 P. (2d) 484.

All that these cases hold is that the acquisition of the property by the state frees *it* (*i.e.* the property) of an existing LIEN for taxes then levied, due and unpaid. None of them holds, as Petitioner contends, that the LIABILITY of the former owner may be reduced by retrospective operation of the municipal corporation's exemptions. Furthermore, in all of them, unlike the present case, a claim for taxes was asserted or a tax lien was attempted to be foreclosed by one state agency against another. The tax agency or the purchasers therefrom did not prevail because of (a) a policy against allowing one state agency to tax another thereby transferring money from "one pocket to the other", and (b) a policy against destroying the character of public property through a tax sale to private parties, thereby depriving the public of its use. Neither of these policies, assuming *arguendo* that they exist in Illinois (and Petitioner is unable to demonstrate that they do) has relevancy to the case at bar, since the state demands no taxes of the Petitioner, nor threatens the sale of its property.

Finally, the public policy governing the tax exemption of municipal corporations is basically different in these cases from the public policy of Illinois. As stated in *Foster* v. *City of Duluth*, 140 N. W. 129 (which is followed and relied on in the *City of*

by statute, *Sanitary District* v. *Hanberg*, 226 Ill. 480, 483; *City of Mattoon* v. *Graham*, 386 Ill. 180, 185; *Sanitary District* v. *Gibbons*, 293 Ill. 519, 521-525. On the precise question of the existence of a special policy favoring exemptions of municipal corporation the Illinois Supreme Court held in the case of *Sanitary District* v. *Martin*, 173 Ill. 243 at p. 247:

> "Whatever may be the law in other States, the language of the constitution of this State plainly implies that the property of municipal corporations is subject to taxation unless there is a law exempting it. (Cita-

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Harlan, Reed, City of Portland, Maricopa County, Gaylon and *Locke* cases), at p. 130:

> "It is technically inaccurate to say that it (the property acquired by the city) was *exempt* from the taxation, for the term 'exemption' rather presupposes a liability removed by some constitutional or statutory provision. The property is 'exempt' not because of any such provision declaring it exempt, but because of its character as public property * * *. The property of the state and of its political subdivisions * * * when used exclusively for public purposes, is not subject to taxation in the absence of constitutional or statutory provisions making public property subject to the tax laws of the state" (Parenthetical material supplied).

See also *City of Laurel* v. *Weems*, 56 So. 451, 452; *Smith* v. *City of Santa Monica*, 121 P. 920, 921.

This is in striking contrast with the public policy of Illinois that all exemptions, including those of municipal corporations, which are not expressly granted by constitution or statutes, are deemed to be withheld. *Sanitary District* v. *Martin*, 173 Ill. 243, 247 (See text *post*).

Moreover, Petitioner recklessly misstates the law when it makes the extravagant pretension that the rule of these cases represents the "law of the land" (Pet. p. 24) "without exception" (Pet. p. 5). There is a respectable body of authority from numerous jurisdictions reaching a contrary result. See, *e.g.*, *United States* v. *Alabama*, 313 U. S. 274; *Triangle Land Co.* v. *City of Detroit*, 170 N. W. 549 (Mich.); *City of Santa Monica* v. *Los Angeles County*, 115 P. 945 (Cal. App.); *State* v. *Salt Lake County*, 85 P. (2d) 851 (Utah); *In re Graley's Estate*, 48 P. (2d) 634 (Wash.); *Childress County* v. *State*, 92 S. W. (2d) 1011 (Tex.); *Madison County* v. *School District No. 2*, 27 N. W. (2d) 172 (Neb.); *Mayor, etc. of Jersey City* v. *Montville Township*, 85 A. 838 (N. J.); *State* v. *Burleigh County*, 212 N. W. 217 (N. D.).

> tion.) * * * the same rule requiring a strict construction of statutes exempting property from taxation belonging to private persons or corporations has been applied to municipal corporations also."

On this question the Court of Appeals said (Rec. 115):

> "It may well be that other courts have found valid distinctions between the exemptions of religious or charitable institutions, and those of municipal corporations under the statutes of their respective jurisdictions. But Illinois has made no such distinction * * *."

Thus, it is clear that the distinction which Petitioner seeks to create based on decisions in other states, specially favoring municipal exemptions, has no validity in Illinois.* It was presumably for that reason that an exemption was granted by the legislature, within the general framework of the Illinois Revenue Act, to property belonging to municipal corporations such as the C. T. A.

Moreover, even in the absence of the express denial of a privileged status to municipal corporations as stated in *Sanitary District* v. *Martin,* 173 Ill. 243, such a result is inevitable upon a proper construction of the Illinois Revenue Act. The subject of tax exemption is covered by thirteen subsections of Sec. 19 of the Illinois Revenue Act (Chapt. 120, Par. 500, Smith-Hurd Ill. Revised Stat. 1949). The

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* *City of Chicago* v. *McCausland,* 379 Ill. 602, 606, cited by Petitioner (Pet. p. 20) as indicating a contrary policy in Illinois is glaringly not in point. Under the Local Improvement Act the value of property there taken was fixed as of the date on which the reports of the commissioners were filed fixing just compensation (379 Ill. at 604). The title acquired by the city related back to the time the commissioners made their report, under the Illinois authorities (379 Ill. 604, 605). Thus title to that property having vested in the City in May 1926, obviously taxes for 1927, 1928 and 1929 assessed while the City was the owner could not be deducted from the award to the owner. In the instant case, Petitioner does not dispute (Pet. p. 13) that title vested in the Authority on September 30, 1947 *after* the taxes were assessed against and became due from the owners, the Debtor corporations, on April 1, 1947.

tax exemption claimed by Petitioner is granted under subsection (13) to "all property * * * belonging to any municipal corporation created for the sole purpose of owning and operating a transportation system for public service". It is treated under the statute in identical fashion with the preceding twelve subsections, including the second, which has been most frequently construed by the courts. This subsection (2) grants exemption to all property used exclusively for religious or school purposes. Subsection (2) and subsection (13) are in *pari materia.* Under traditional principles of statutory construction, no reason exists for a broader scope of exemption of property belonging to municipal corporations under subsection (13) than that afforded under subsection (2). Similar terms of statutes enacted for like purposes should receive like interpretations. *Burnet* v. *Guggenheim,* 288 U. S. 280, 286, 287; *U. S.* v. *Colorado & N. W. R. Co.,* 157 Fed. 321, 330; *People* v. *Day,* 321 Ill. 552, 555.

Parenthetically, it is significant that Petitioner raises no question as to the second aspect of the Court of Appeal's holding, which affirmed the District Court's construction of the proration provisions of the Plan. To eliminate the possibility of misunderstanding this aspect of the opinion relating to the construction of the Plan, the Trustee points out that, under the proration provisions of the Plan, when the amount of 1947 personal property taxes lawfully due is finally determined and paid, the Trustee will have a right under the Plan to require an adjustment of the purchase price in an amount equal to one-fourth of the taxes (since the C. T. A. owned the property for one-fourth of the calendar year 1947). This right is a contract right under the Plan, *In re Alton R. Co.* (C. A. 7), 159 F. (2d) 200, 207, and cases therein cited. There is no question that any contractual liability, such as this obligation, to be undertaken under the Plan, was clearly within the statutory powers of the C. T. A. Smith-Hurd Ill. Rev. Stat., 1949 Ed. Ch. 111⅔,

Par. 301-344, as interpreted by the Illinois Supreme Court in *People* v. *Chicago Transit Authority*, 392 Ill. 77.

The obvious purpose of C. T. A.'s omission of any challenge to the construction of the proration provisions of the Plan is to avoid focusing attention upon the fact that the real objective of the C. T. A. is to escape the consequences of its contractual liability under the Plan.

The District Court construed the proration agreement of Article II-E(1) as follows (R. 86):

> "The Plan of Reorganization in Article I-E(1) (sic) expressly provides for the proration of 'general real and personal property taxes as of the date of transfer'. If this language is to be given its usual and customary meaning, or if in fact it is to have any meaning at all, it must be that the Transit Authority undertook by its acceptance of the Plan that it would reimburse the Trustees for a pro rata share of all property taxes levied or assessed against the Trustees for the year in which the sale and transfer of the property was to be made, having in mind the pertinent provisions of the Illinois statute (Sec. 28 of the Revenue Act). This contractual provision was intended to adjust the purchase price of the property as of the date of transfer."

In approving this finding, the Court of Appeals said (R. 115):

> "As we read the provisions of the plan, we think that this was a correct determination of the issue between the trustee and the Authority * * *."

Nowhere does the Petitioner complain that this interpretation of the Plan was improper. Nowhere does it point, nor can it point, to any statute or rule of decision in Illinois which would permit it to nullify its contractual obligation under the Plan to pay as an additional part of the purchase price an amount equal to its prorata share of the taxes as of the date of transfer. Thus on this aspect

of the case as well as on the first, Petitioner has utterly failed to sustain the burden of demonstrating that the Court of Appeals has failed to follow the law of Illinois.

The Decision of the Court of Appeals Is Not in Conflict With the Rule of the Court of Appeals For the Third Circuit.

The decision of the Third Circuit claimed by the Petitioner to be in conflict with the holding of the Court of Appeals in this case is *U. S.* v. *Certain Parcels of Land, etc.*, 130 F. (2d) 782. A casual examination of the opinion in that case will disclose that it is readily distinguishable. It is not necessary to discuss any other distinctions except to mention the very obvious one that the Third Circuit case involving as it did questions of Pennsylvania taxes was decided according to Pennsylvania law while this case involving questions of Illinois taxes was decided according to the law of Illinois. The point is at once apparent from the following language of the Third Circuit's opinion:

> "the tax liability in such a case is a question of state law * * * (p. 783). They were by the express terms of the statute (53 Pa. St. § 2022) liens on the property from that date forth. * * * The result is supported by the well established doctrine in Pennsylvania * * * (citing numerous decisions of that state) (p. 784)."

There can be no question that the Third Circuit was obligated to and did follow Pennsylvania law for even before *Erie R. Co.* v. *Tomkins*, 304 U. S. 69, federal courts were bound to follow state law in controversies over state taxation which necessarily arise under "the positive statutes of the state and the construction thereof adopted by local tribunals". *Swift* v. *Tyson*, 16 Pet. 1, 18.

Can the decision of this Court of Appeals then be said

to be in conflict with that of the Third Circuit where the latter is based on a body of Pennsylvania statutes and decisions having no currency in Illinois? Petitioner's assertion of such a conflict amounts to an argument that this Court has the function of reconciling the local law of the several states. To state the argument is to reject it.

Parenthetically we note another aspect of Petitioner's argument that passes understanding. On page 5 of its petition appears the following statement:

> "The prorata abatement of taxes when a municipal corporation acquires property after assessment day has never been decided in Illinois."

Having made this dubious assertion, Petitioner concludes:

> "The Court of Appeals has failed to follow the local law—and the writ should be granted." (Pet. p. 5.)

If Petitioner is correct that there is no local rule of decision in Illinois then how can the Court of Appeals be amiss in not following it? This question answers itself.

It should be noted that by the time Petitioner reaches his conclusion, the non-existent "local law" which the Court of Appeals allegedly did not follow, has grown to be "the law of the land" (Pet. p. 24).

Conclusion.

For the reasons above set forth, and more extensively discussed in the opinions of the Court of Appeals and the District Court, this Respondent submits that the Petition for Writ of Certiorari has no merit and should be denied.

Respectfully submitted,

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